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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 502 OF 1998
Cuttack, this the 21st day of March, 2001

Nityananda Nayak Applicant

Vrs.

Union of India and others.... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

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(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
21.3.2001

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.**

**ORIGINAL APPLICATION NO. 502 OF 1998
Cuttack, this the 21st day of March, 2001**

CORAM:

**HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND**

HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

Nityananda Nayak, a ged about 38 years, son of Dibakar Nayak, at/PO-15, Cantonment Road, Postal Colony, Cuttack, at present working as Stenographer in the office of the Executive Engineer, Postal Civil Division, Cuttack, At/PO/District-Cuttack

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Applicant

Advocates for applicant - M/s S.K.Dash
P.Ku Mishra
S.Behera

Vrs.

1. Union of India, represented through its Secretary, Ministry of Communication, Department of Post, Daka Bhawan, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, District-Khurda.
3. Superintending Engineer, Postal Civil Circle, GPO Complex, Patna-I.
4. Executive Engineer, Postal Civil Division, Cuttack-3, At/PO/Dist.Cuttack

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Respondents

Advocate for respondents - Mr.B.K.Nayak
ACGSC

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application the petitioner has prayed for quashing the order dated 31.8.1998 (Annexure-6) transferring him from the office of Executive Engineer, Postal Civil Division, Cuttack, to the office of Post Master General, Sambalpur Region and for a direction to the respondents to allow him to continue at his present place of posting. By way of interim relief, he had prayed that the order at Annexure-6 should be stayed. In order dated 29.8.1998 the transfer order was not stayed, but in consideration of the difficulties of the petitioner it was

ordered that in case the petitioner is relieved from his post during the pendency of the O.A., he should be allowed to continue to occupy the quarters at Cuttack till the disposal of the O.A.

2. The respondents have filed counter opposing the prayers of the applicant. The respondents have filed MA No. 91 of 2001 praying for vacation of the interim order regarding occupation of the quarters. The applicant has filed MA No. 216 of 2001 objecting to the prayer for vacation of the interim order. We have perused all these documents and have heard Shri S.K.Dash, the learned counsel for the petitioner and Shri B.K.Nayak, the learned Additional Standing Counsel for the respondents.

3. The admitted position is that the applicant joined the Department of Posts as Grade-III Stenographer in May 1985. The applicant has stated that he was transferred to different wings after his appointment in 1985. The respondents have pointed out and this has not been denied by the applicant by filing any rejoinder that he was initially appointed as a Stenographer on 14.1.1985 and posted in the office of Senior Superintendent of Post Offices, Cuttack City Division, where he continued upto 16.12.1993. Thereafter he was transferred to the office of Executive Engineer, Postal Civil Division, Cuttack, where he joined on 17.12.1993. From this admitted position it is seen that ever since his joining the Department, the applicant has continued for about 13 years at Cuttack till he was transferred in 1998 in the impugned order at Annexure-6. It is also the admitted position that the applicant is a Circle level staff with all Orissa transfer liability. In support of his prayers, the applicant has

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urged two grounds of personal difficulty. He has stated that his children are prosecuting their studies in Class II and Class VI and their studies will be affected if the petitioner is transferred from Cuttack. He has also stated that his father, aged 80 years, is under treatment in Cancer Institute at Cuttack and is also a paralysis patient. Besides the above, the applicant has stated that Stenographers in Postal Civil Wing constituted a separate cadre in 1995 and respondent no.1, the Secretary, Ministry of Communication issued a notification to absorb the optees who are working in the Postal Civil Wing. The applicant has stated that in response to this, he has given his option on 6.11.1996 at Annexure-2 for permanent absorption in Postal Civil Wing. But without taking any action on his option, he has been transferred back to a post in Postal Wing in the impugned transfer order. In the context of the above, the petitioner has come up with the prayers referred to earlier.

4. In our interim order dated 29.9.1998 a direction was issued to the Chief Post Master General to consider the representation dated 21.9.1998 of the applicant if the same is still pending with him and to dispose it of through a speaking order. Accordingly, the Chief Post Master General in his order dated 12.11.1998 (Annexure-R/1) has rejected the applicant's representation.

5. Before proceeding further, it is to be noted that the applicant has filed another OA No.630 of 1998 for quashing the order dated 12.11.1998 and with regard to his grievance regarding his option to get permanently absorbed in Postal Civil Wing. That OA has also been heard though separately but on the same day and has

been disposed of by an order delivered today. In view of this, it is not necessary to refer to this aspect of his grievance with regard to his permanent absorption in the Postal Civil Wing in the present O.A. because this will be considered in OA No.630 of 1998. In MA No.216 of 2001 filed by the applicant as objection to the MA filed by the respondents for vacation of the interim order regarding continued occupation of the quarters by the applicant at Cuttack, the applicant has taken a stand that he is under treatment of doctors in Cancer Institute at Cuttack and we have taken note of the same. In the context of the above facts, the prayer of the applicant has to be considered. It is admitted that the applicant has continued at Cuttack for thirteen years from 1985 before he was transferred to the office of Post Master General, Sambalpur. He is holding a transferable job with transfer liability within the Circle. Therefore, he cannot claim that because of his personal difficulties he should be allowed to continue at Cuttack indefinitely even beyond thirteen years. In any case the applicant has already joined his new post in the office of the Post Master General, Sambalpur, where he will have adequate facilities for education of his children as also for treatment of his father and for himself. In view of the above, we find no merit in this O.A. which is accordingly rejected. No costs. The interim order passed on 29.9.1998 stands vacated.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
21.3.2001
VICE-CHAIRMAN